

JS 44 (Rev. 12/12)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

TRACY JAMES, Individually and as Administratrix of the Estate of Richard James

(b) County of Residence of First Listed Plaintiff Lancaster
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Guy H. Brooks and James J. Franklin, McNeese Wallace & Nurick LLC,
100 Pine Street, PO Box 1166, Harrisburg, PA 17108

DEFENDANTS

RONALD DAWLEY; PALMER FISH CO., INC. a/k/a PALMER FISH CO. a/k/a PALMER FISH; CONWAY BEAM LEASING INC.; G & C FOOD DISTRIBUTORS & BROKERS, INC. a/k/a G & C FOODS

County of Residence of First Listed Defendant Oswego, NY
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Platte Moring, III, White and Williams LLP, 3701 Corporate Parkway, Suite 300, Center Valley, PA 18034 (for Ronald Dawley, Palmer Fish Co., Inc. and G & C Food Distributors & Brokers, Inc.) Conway Leasing Attorney Unknown

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|---------------------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input checked="" type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input checked="" type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from Another District (specify)
☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 USC 1332(a)(1)

Brief description of cause:

Diversity jurisdiction suit arising out of fatal accident involving two tractor-trailers

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE N/A

DOCKET NUMBER

DATE
10/02/2014

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

Tracy James, Individually and as Administratrix of the
Estate of Richard James

CIVIL ACTION

v.

Ronald Dawley; Palmer Fish Co, Inc. a/k/a Palmer Fish
Co. a/k/a Palmer Fish; Conway Beam Leasing, Inc.; G &
C Food Distributors & Brokers, Inc. a/k/a G & C Foods

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ☐
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ☐
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ☐
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ☐
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ☐
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ☒

10/2/14


Guy H. Brooks, Esq.

Plaintiff

Date

Attorney-at-law

Attorney for

717-237-5384

717-260-1651

gbrooks@mwn.com

Telephone

FAX Number

E-Mail Address

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 675 Ridge Road, Reinholds, PA 17569

Address of Defendant: See attached sheet

Place of Accident, Incident or Transaction: 7506 Block of Morris Court in Allentown, PA
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?
(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities? Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court? Yes ☐ No ☒
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? Yes ☐ No ☒

CIVIL: (Place ☒ IN ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☐ All other Federal Question Cases
(Please specify) _____

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☒ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify) _____
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases
(Please specify) _____

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, Guy H. Brooks, Esquire

counsel of record do hereby certify:

☒ Pursuant to Local Civil Rule 53.2, Section 3(e)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

☐ Relief other than monetary damages is sought.

DATE: 10/2/14

[Signature]
Attorney-at-Law

49672

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with E.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 10/2/14

[Signature]
Attorney-at-Law

49672

Attorney I.D.#

Ronald Dawley
3651 Co. Route 4
Oswego, NY 13126

Palmer Fish Co., Inc. a/k/a Palmer Fish Co. a/k/a Palmer Fish
900 Jefferson Road,
Rochester, New York 14623

Conway Beam Leasing Inc.
2674 West Henrietta Road
Rochester, NY 14623

G & C Food Distributors & Brokers, Inc. a/k/a G & C Food Distributors Inc.
3407 Walters Road
Syracuse, NY 13209

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

TRACY JAMES, Individually and
as Administratrix of the Estate of
Richard James,

Plaintiff

v.

RONALD DAWLEY; PALMER
FISH CO., INC. a/k/a/ PALMER
FISH CO. a/k/a PALMER FISH;
CONWAY BEAM LEASING INC.;
G & C FOOD DISTRIBUTORS &
BROKERS, INC. a/k/a G & C
FOODS,

Defendants

CIVIL ACTION NO.

JURY TRIAL DEMANDED

COMPLAINT

Parties

1. Plaintiff in this matter is Tracy James, Individually and as Administratrix of the Estate of Richard James ("James").
2. James is a resident of the state of Pennsylvania, with a current residential address of 675 Ridge Road, Reinholds, Pennsylvania 17569.
3. Upon information and belief, Defendant Ronald Dawley ("Dawley") is a resident of the state of New York, with a current residential address of 3651 Co. Route 4, Oswego, New York 13126.

4. Upon information and belief, Defendant Palmer Fish Co., Inc. a/k/a Palmer Fish Co. a/k/a Palmer Fish ("Palmer Fish") is a business incorporated in the state of New York with a business address of 900 Jefferson Road, Rochester, New York 14623, and a principal place of business in New York.

5. Upon information and belief, at all relevant times hereto Dawley was acting as the agent, servant, and/or employee of Palmer Fish, or Palmer Fish was otherwise responsible for Dawley's actions in causing the accident that is the subject of this action.

6. Upon information and belief, Defendant Conway Beam Leasing Inc. ("Conway") is a business incorporated in the state of New York with a business address of 2674 West Henrietta Road, Rochester, New York 14623, and a principal place of business in New York.

7. Upon information and belief, at all relevant times hereto Conway owned and/or operated the tractor-trailer driven by Dawley at the time of the accident and oversaw and controlled or did have the ability to oversee and control Dawley's actions.

8. Upon information and belief, Defendant G & C Food Distributors & Brokers, Inc. a/k/a G & C Foods ("G&C") is a business incorporated in the state of New York with a business address of 3407

Walters Road, Syracuse, New York 13209, and a principal place of business in New York.

9. Upon information and belief, at all relevant times hereto Dawley was acting as the agent, servant, and/or employee of G&C, or G&C was otherwise responsible for Dawley's actions in causing the accident that is the subject of this matter.

10. On the date of this incident, October 4, 2012, the Decedent Richard James ("Decedent") and James were husband and wife, residing at 675 Ridge Road, Reinholds, Pennsylvania 17569.

Jurisdiction and Venue

11. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1332(a)(1), insofar as the matter in controversy exceeds the sum of \$75,000, exclusive of interest and costs, and there is complete diversity between James and all Defendants.

12. Venue is proper in this district under 28 U.S.C. § 1391(b) because a substantial part of the events and omissions giving rise to this claim occurred in this district.

Factual Background

13. On the morning of October 4, 2012, Decedent was driving a 2006 Volvo tractor bearing Illinois license number P603323 with attached

trailer bearing Illinois license number T479380, in the eastbound lane along the 7500 block of Morris Court in Allentown, Pennsylvania.

14. Decedent was 54 years old.

15. Decedent stopped his tractor-trailer in the eastbound lane of Morris Court and was curbside, outside of the vehicle, at or near the passenger side of the cab.

16. Decedent activated the rear trailer lights and trailer brakes on his tractor-trailer.

17. At that time and place, through his negligent, outrageous, and extremely reckless conduct, Defendant Dawley caused the death of Decedent by colliding with Decedent's tractor-trailer, which then ran over Decedent.

18. At that time and place, Defendant Dawley was driving a tractor-trailer, with 2007 Volvo tractor bearing New York license 84432PA and attached trailer bearing New York license 3781C7 (the "Conway tractor-trailer"), traveling eastbound on Morris Court.

19. At or about 5:54 a.m. on October 4, 2012, Defendant Dawley was traveling eastbound on Morris Court as he approached the stationary position of Decedent's tractor-trailer.

20. Prior to the collision, and with sufficient time and space to prevent any collision, as he was driving along Morris Court Defendant Dawley saw and noticed Decedent's trailer in front of him on Morris Court.

21. Despite knowing that Decedent's trailer was in front of him, at that moment Defendant Dawley chose to and did reach down in his truck cab for a soda, took a drink, then reached down again to put the soda back in its place.

22. As Defendant Dawley drank his soda, he knowingly and intentionally took his eyes and attention from the road and the vehicular traffic in front of and around him.

23. Defendant Dawley, in his statement to police, admitted to seeing Decedent's trailer in front of him, both before and after reaching for the soda.

24. As part of an industrial park, the route and specific road on which the accident occurred are routinely and consistently traveled by commercial motor vehicle operators, a fact Dawley previously knew or should have known.

25. By the time that Defendant Dawley returned his eyes and attention to the road and the vehicular traffic, he was already so close to

Decedent's tractor-trailer that he was unable to avoid Decedent's trailer and crashed into the rear left side of Decedent's trailer.

26. Dawley did not apply his brakes to stop the Conway tractor-trailer from hitting Decedent's trailer or slow down the Conway tractor-trailer before the collision.

27. The collision was so violent that it caused the deployment of the airbag in Dawley's tractor and broke its window.

28. The impact suddenly and without warning propelled Decedent's tractor-trailer forward more than 50 feet.

29. Following the accident, the Berks-Lehigh Regional Police Department and emergency medical service personnel arrived at the scene of the collision on Morris Court.

30. Law enforcement personnel located Decedent in the roadway in front of and partially under the tires of his trailer.

31. A forensic investigation and examination by law enforcement personnel confirmed that Dawley did not apply his brakes before colliding with Decedent's trailer.

32. The police crash report confirmed that, at the time of the incident, the weather conditions were overcast with no fog and the roadway was dry.

33. The police accident reconstruction report also confirmed that there were no mechanical issues with the Conway tractor-trailer that could have caused or led to the collision.

34. Decedent subsequently died as a result of the injuries that he suffered in the collision.

Dawley's Negligence

35. Defendant Dawley had a duty to exercise reasonable care in the operation of the Conway tractor-trailer.

36. Defendant Dawley had a duty to operate the Conway tractor-trailer in a safe, prudent and lawful manner.

37. On October 4, 2012, Defendant Dawley's conduct was negligent, careless, outrageous, and extremely reckless in the operation of the Conway tractor-trailer, including but not limited to in the following respects:

- a. In driving too fast for conditions;
- b. In failing to keep a careful lookout;
- c. In failing to maintain an adequate view of the roadway in front of him;
- d. In failing to maintain control of the vehicle;

e. In failing to pay attention and respond appropriately to the road, traffic, and weather conditions;

f. In failing to adhere to applicable local, state, and federal laws;

g. In failing to stop, swerve or slow the vehicle when he knew or should have known that there was a likelihood of crashing into other vehicles;

h. In permitting his vehicle to crash into the rear of a vehicle that was stopped ahead of him; and,

i. Violating applicable provisions of the United States Department of Transportation regulations for commercial motor vehicles and/or of the Pennsylvania Motor Code.

38. Defendant Dawley's conduct was both a substantial factor and directly responsible for the events that injured and ultimately killed Decedent.

39. Defendant Dawley's negligent, careless, outrageous, and extremely reckless conduct put Decedent at imminent risk for substantial injury and death, both of which did in fact result.

40. Defendant Dawley failed to cease and/or protect Decedent from Dawley's own negligent, careless, outrageous, and extremely reckless conduct.

41. Defendant Dawley's intentional and knowing actions and inaction demonstrated a willful and wanton disregard for the safety of others, namely Decedent.

42. Defendant Dawley's outrageous and extremely reckless conduct placed Decedent at great risk of and caused his injury and death, warranting the imposition of punitive damages against Dawley.

Negligence of Palmer Fish, G&C, and Conway

43. Upon information and belief, at all times relevant hereto, Dawley was acting as an agent, servant, and/or employee of Palmer Fish and G&C and was acting within the ordinary scope of employment with Palmer Fish and G&C.

44. Upon information and belief, at all times relevant hereto, Conway owned the tractor-trailer that Defendant Dawley was operating at the time of the accident and Conway oversaw and controlled or had the ability to oversee and control Dawley's actions.

45. Upon information and belief, Dawley operated the Conway tractor-trailer with the knowledge, consent, and/or permission of Palmer Fish, G&C, and/or Conway.

46. Upon information and belief, at the time of the accident Dawley was furthering the business and financial interests of Palmer Fish, G&C, and/or Conway.

47. G&C, Palmer Fish, and/or Conway are directly and/or vicariously liable and responsible for Dawley's conduct in causing the accident.

48. Defendant Dawley operated the Conway tractor-trailer with the express or implied knowledge, consent, and permission of G&C, Palmer Fish, and/or Conway.

49. G&C, Palmer Fish, and/or Conway had a duty to exercise reasonable care in entrusting the tractor-trailer to Dawley.

50. G&C, Palmer Fish, and/or Conway had a duty to exercise reasonable care in hiring, retaining, training, and supervising Dawley.

51. The damages set forth herein were caused by, and were the direct and proximate result of, the negligence and carelessness of G&C, Palmer Fish, and/or Conway, including but not limited to:

- a. Negligent hiring of Defendant Dawley;

b. Failure to properly supervise Dawley regarding the performance of his duties;

c. Failure to properly train Dawley regarding the performance of his duties;

d. Failure to adopt, enact, and employ proper and adequate safety precautions, procedures, and measures to ensure the safety of motorists and pedestrians by preventing and/or controlling the distracted driving of Dawley; and,

e. Negligent entrustment of a vehicle to Defendant Dawley.

52. The negligence set forth above was both a substantial factor and the direct and proximate cause of Decedent's injuries and eventual death.

COUNT I
Survival

(Plaintiff v. Ronald Dawley, Palmer Fish Co., Inc., G & C Food Distributors & Brokers, Inc., and Conway Beam Leasing Inc.)

53. Paragraphs 1 through 52 of the Complaint are incorporated herein by reference.

54. Plaintiff Tracy James, Individually and as Administratrix of the Estate of Richard James, brings this survival action pursuant to 20 Pa. C.S. § 3373 and 42 Pa. C.S. § 8302.

55. Decedent did not bring an action for personal injuries arising from or related to this matter during his lifetime, and no other civil action arising from Decedent's death has been commenced against any of the Defendants.

56. As a direct and proximate result of Defendant Dawley's intentional and/or negligent actions and inaction, Decedent suffered and Defendants are liable to Decedent for damages, including as follows:

- a. Decedent's conscious pain and suffering between the time of his injuries and the time of his death;
- b. Decedent's total future earnings and earning capacity (including Social Security, retirement, and other fringe benefits) less the estimated cost of his personal maintenance; and,
- c. All other relief permitted under Pennsylvania's Survival Act and its interpretative case law.

WHEREFORE, Plaintiff Tracy James, Individually and as Administratrix of the Estate of Richard James, demands judgment against Defendants Ronald Dawley, Conway Beam Leasing Inc., G & C Food Distributors & Brokers, Inc. a/k/a G & C Foods, and Palmer Fish Co., Inc.

a/k/a Palmer Fish Co. a/k/a Palmer Fish for compensatory damages in an amount exceeding \$75,000. Plaintiff also demands judgment against Defendant Ronald Dawley for punitive damages. Plaintiff further demands interest and costs, as well as delay damages and all other relief that the Court deems just.

COUNT II
Wrongful Death

(Plaintiff v. Ronald Dawley, Palmer Fish Co., Inc., G & C Food Distributors & Brokers, Inc., and Conway Beam Leasing Inc.)

57. Paragraphs 1 through 56 are incorporated herein by reference.

58. Plaintiff Tracy James, Individually and as Administratrix of the Estate of Richard James, brings this action pursuant to 42 Pa. C.S. § 8301 and Pa. R. Civ. P. § 2202(a) as the personal representative of the Decedent, Richard James, on her own behalf and on behalf of those persons entitled by law to recover damages for the wrongful death of Decedent, including Decedent's adult children.

59. Decedent was survived by his wife, Plaintiff Tracy James, and his adult children.

60. Decedent did not bring an action for personal injuries arising from or related to this matter during his lifetime, and no other civil action for Decedent's death has been commenced against any of the Defendants.

61. Plaintiff is entitled to recover damages incurred as a direct and proximate result of Defendants' negligent, careless, outrageous, and extremely reckless actions and inaction, as follows:

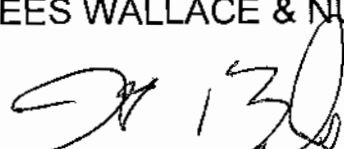
- a. medical, funeral, and burial/cremation expenses for Decedent;
- b. the deprivation of Decedent's support and livelihood to his wife and children, including but not limited to that part of Decedent's earnings during the probable duration of his life that would have gone for the benefit of his wife and/or children;
- c. the deprivation and loss of Decedent's support, companionship, comfort, counsel, aid, association, care, services, guidance, tutelage, and moral upbringing to his wife and/or children;
- d. costs of Estate Administration; and,
- e. all other relief permitted under Pennsylvania's Wrongful Death Act and its interpretative case law.

WHEREFORE, Plaintiff Tracy James, Individually and as Administratrix of the Estate of Richard James, demands judgment against Defendants Ronald Dawley, Conway Beam Leasing Inc., G & C Food Distributors & Brokers, Inc. a/k/a G & C Foods, and Palmer Fish Co., Inc. a/k/a Palmer Fish Co. a/k/a Palmer Fish for compensatory damages in an amount exceeding \$75,000. Plaintiff also demands judgment against Defendant Ronald Dawley for punitive damages. Plaintiff further demands interest and costs, as well as delay damages and all other relief that the Court deems just.

McNEES WALLACE & NURICK LLC

Date: October 2, 2014

By

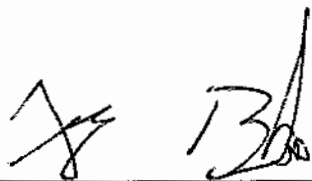


Guy H. Brooks
PA I.D. No. 49672
James J. Franklin
PA I.D. No. 306458
100 Pine Street, P.O. Box 1166
Harrisburg, PA 17108-1166
(717) 232-8000

Attorneys for Plaintiff

VERIFICATION

Subject to the penalties of 18 Pa. C.S.A. §4904 relating to unsworn falsification to authorities, I hereby certify that I have acquired knowledge of the alleged facts and circumstances giving rise to this claim and am authorized to execute this Verification on behalf of Plaintiff Tracy James, Individually and as Administratrix of the Estate of Richard James and that the statements herein are true and correct to the best of my knowledge, information and belief.



Guy H. Brooks, Esquire

Dated: October 2, 2014